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SUBJECT: Argentine Government Delays Charges Against AES, According
To Local Press

Ref: A. Buenos Aires 1653
[1](#)B. Buenos Aires 836

SUMMARY

[1](#)1. (SBU) Argentine media reports that the GoA has decided internally not to charge U.S. energy company AES Corporation's local affiliate (EDELAP) for bookkeeping irregularities (reported ref A). The press reports allege that the GoA is backing off because it could not find any interested buyers for EDELAP and also to avoid further complications to the bilateral relationship with the U.S. Local press reports have regularly highlighted Ambassador's calls for "fair" treatment of AES. However, GoA Planning Minister Julio De Vido and AES officials subsequently indicated that a GoA decision on EDELAP is pending a January 8 meeting, at which the GoA and AES will review AES's investment plans in Argentina. De Vido added that he intends to treat AES fairly. End Summary.

GoA ceasing its offensive against AES?

[1](#)2. (SBU) Argentine daily Clarin reported December 29 that the GoA had decided to "freeze its offensive" against U.S. energy company AES's local affiliate, the electricity distribution company EDELAP. This followed earlier GoA threats to file criminal and civil charges against EDELAP for accounting irregularities (reported Ref A). The Clarin article claims there are two reasons behind the GoA's reported decision to back away from its aggressive approach with EDELAP (which the article speculates was beginning to look as if it would end up as another in a string of GoA nationalizations of previously privatized companies). First, Clarin claimed, the GoA wants to avoid "a new short circuit" with the USG, particularly following Ambassador Wayne's public call for the GoA to ensure "fair and normal treatment" of AES. Second, the article alleges that the GoA sounded out three local companies about taking over EDELAP from AES, but none expressed interest. Therefore, according to Clarin, the GoA's Planning Ministry has agreed to suspend its investigations in exchange for a commitment from AES to take a more direct role in managing EDELAP operations and also increase investment in its Argentine operations.

[1](#)3. (SBU) However, during a press conference on the day of Clarin's report, Planning Minister Julio De Vido denied the existence of any deal, stating that "the situation is not yet resolved" and the GoA will continue analyzing EDELAP's investment plan until January 8. At that time, he stated that the GoA will make a decision, which could include the rescission of EDELAP's contract with the GoA as an electricity supplier.

AES Says Still Waiting

14. (SBU) Guillermo Baistrocchi, EDELAP's Institutional Relations Manager, confirmed to EconOff December 30 most of De Vido's interpretation of the status of AES's discussions with the GoA. He said that AES Chief Operating Officer Andres Gluski came to Argentina and met with Minister De Vido shortly before Christmas. According to Baistrocchi, De Vido told Gluski that the GoA has substantial evidence of bookkeeping irregularities, and "basically told us to invest more or pull out" of Argentina. AES had already made the decision to stay in Argentina. In fact, Gluski presented to De Vido EDELAP's investment plan (the one De Vido referred to on December 29). As part of this plan, AES announced December 15 its intent to invest 300 million pesos (USD 87 million) in improvements over the next five years. Baistrocchi said that AES would meet again with De Vido on January 8 to discuss the investment plan. While commenting that De Vido never made an explicit quid pro quo offer, Baistrocchi said he expects that the GoA will drop its claims of accounting irregularities if it deems the investment plan satisfactory.

15. (SBU) Contrary to Clarin's speculation that the accusations were part of a GoA strategy to nationalize EDELAP or encourage the transfer of EDELAP ownership to Argentine hands (see Ref B), Baistrocchi believes that the charges arose not because EDELAP was foreign-owned, but rather because of the importance of the power sector to the GoA. (Comment: A key element of this importance is politics. The GoA wants to make sure the electricity distribution companies make the investments needed to avoid significant power outages in 2009, an election year.)

16. (SBU) As evidence that the GoA is not targeting foreign firms, Baistrocchi cited the GoA's December 29 announcement that it will take control for at least 120 days of majority Argentine-owned

Transportadora de Gas del Norte (TGN), which operates 4,000 miles of gas pipelines. The GoA said it would take over TGN for four months following TGN's announcement that it would likely default on \$22.5 million of debt in the absence of restructuring. The GoA defended the move as being essential to ensuring the continued supply of gas.

(Note: In May 2008, Bank of America's Blue Ridge Investments, a distressed asset fund, acquired the final judgment awarded to CMS Energy by the International Center for the Settlement of Investment Disputes, ICSID, along with CMS's 23% stake in TGN.)

17. (SBU) Baistrocchi reiterated AES' earlier request that the USG not get out ahead of AES on this issue, but expressed appreciation for the Ambassador's public request that the GoA investigation of the alleged accounting irregularities be "fair and transparent." This request seems to have resonated with Minister De Vido, because he assured reporters during his December 29 press conference that AES would indeed receive "fair treatment."

Comment

18. (SBU) Press speculation aside, it appears the GoA may be using these accusations -- whether justified or not -- as leverage to force AES to make the investments needed to avoid future power outages (such as occurred in late November and preceded the initial accusations against EDELAP). As such, it fits the pattern of the GoA going after both foreign and domestic companies in public to force them either to increase investments, avoid layoffs, drop ICSID suits, or limit price increases, regardless of local economic conditions. Those that don't give in generally are compelled to depart the Argentine market.

WAYNE